

Minutes
Beaches and Shores Advisory Committee
Tuesday, December 3, 2015, 9:00 a.m.
Building Construction Services Large Conference Room
18400 Murdock Circle, Port Charlotte, FL 33948

****Please note that one or more Charlotte County Commissioners may be in attendance at any meeting of the Beaches and Shores Advisory Committee****

Members Present

Tommy Brock, District 3 / Vice Chairman
Clifford Kewley, Member-at-Large, Chairman
Robert Pierce, FL Shore & Beach Preservation Assoc.
Katherine Ariens, District 2
Dick Whitney, District 1

Members Excused

[vacant], District 5
Rich Parchen, District 4

Staff Present

Chuck Mopps, Charlotte County Engineering Division
Lynette Auger, Natural Resources
Gayle Moore, Recording Secretary

Guests Present

Michael Poff, Coastal Engineering Consultants
Capt. Ron Blago, MAC Liaison

Call to Order

Chairman Kewley called the meeting to order at 9:01 a.m

Following the roll call, and on motion made by Mr. Pierce, seconded by Ms. Ariens and carried unanimously, the minutes from November 5, 2015, were approved as received.

Additions/Deletions to Agenda Items

Chair Kewley added discussion of the election of officers to the agenda; and on motion made by Mr. Pierce, it was unanimously agreed that the election would be added to the agenda for the January 2016 meeting.

Chair Kewley called for suggestions for filling the vacant seat previously held by Jack Landis, either with a person living in District V or, if that was not possible, any suitable and interested person. Further discussion ensued on the search prospects.

Citizens Comments on Agenda Items

None were offered.

New Business

None was offered.

Old Business

Update on the Stump Pass 10-Year Inlet Management Plan

Chair Kewley invited Mr. Poff to lead off on this item, especially on whether the Commissioners had 'stormed the steps' in Tallahassee to get the permit issued by Army Corps of Engineers (ACOE). Mr. Poff indicated that the permit from the State Department of Environmental Protection was in hand; the biological opinion from the US Fish and Wildlife Commission had also been received, along with the National Marine Fisheries' consultation letter. These were the last items needed for the ACOE to issue their permit, and their representative has indicated that this matter is one of their top priorities. He indicated that the permit is anticipated to be received before the end of this year, and provided a few other associated details.

Mr. Poff also provided information regarding the bidding process possibly going forward while the County awaits actual receipt of the ACOE permit; he noted that the contract could not be awarded without actual receipt of the ACOE permit, but since the bid process was normally about 60 days, start to finish, those two things could run in tandem. He gave further details about timing options and alternate strategies, depending on the inflow of final approvals; he noted that dredging outfits were very busy with work in other regions (e.g., related to Hurricane Sandy, etc.) and also that occasionally bidders had to be disqualified after going through the process.

Chair Kewley had questions about what conditions might disqualify bidders who stepped up to the bid; Ms. Ariens also had questions about this process. Mr. Poff provided examples of disqualifying conditions which might lead to a re-bidding process being needed (lack of appropriate equipment to complete the project); further discussion ensued on the vetting procedures that are part of the bidding process. Ms. Lynette Auger of Charlotte County's Department of Community Services noted that the County is generally required to go with the lowest bidder, or to provide ample justification for going with the next highest bidder, if that proves necessary.

Mr. Pierce asked when sand would go on the NW corner of Palm Island; Mr. Poff responded and further discussion ensued on this detail. Mr. Pierce also asked whether it wasn't getting too late in the year to meet the preferred schedule; Mr. Poff indicated that a final decision on that point would be made in the next two weeks.

Details were provided by Mr. Poff regarding the past and newly-proposed easement conditions at the state park, which the County is not comfortable with; he indicated that the issue would probably be resolved within the next week or so, pending State Park staff meetings taking place tomorrow. It was noted in passing that State Parks representative Chad Lach had not been present at BSAC meetings recently; therefore his input was missing from this discussion. Further discussion on this issue continued, including reference to cost implications for the County. Mr. Brock sought clarification on the ownership of the land; Mr. Poff and others indicated that the County had made a gift of this land to the State.

Mr. Mopps joined the meeting at 9:23; he noted he had been in Fiscal, with regard to the differentials between the existing estimates (created a number of years ago) and current costs. He commented on the budget process which is necessary now, including rebidding.

Chair Kewley called on guest, Mr. Rawy Shediak, who asked how far up the Key this work will go; Mr. Poff indicated that the work would go to R18 and Mr. Mopps directed Mr. Shediak to the project information available online.

Beach Erosion Study for North Manasota Key

Chair Kewley opened the discussion on this matter, seeking feedback on the recent stakeholder meeting and the level of citizen buy-in for the project. Mr. Mopps responded with information that the BCC had, at their last meeting, approved the boundaries for a new Municipal Services Benefit Unit (MSBU) for Manasota Key to facilitate the work being contemplated. The County Attorney's office and MSBU staff, working with input from the community, are coming up with funding options for the BCC to consider. Mr. Mopps indicated he and Mr. Poff had also discussed whether it would be possible to tie this project together with the Stump Pass work in order to better manage costs; further discussion on some of the related details then ensued.

Ms. Ariens questioned whether tying projects together would create any delays; Mr. Mopps responded that it would not. Mr. Brock also had a question about how the work would commence in terms of the time frame; Mr. Mopps responded with information on the savings that accrue to a single large project compared to several small projects.

Mr. Brock raised the subject of the Erosion Control Line (ECL), indicating he had talked to people on the far north of the Key and their concerns about losing their private beach; he asked what agency requires this, and also questioned the six-month timeframe (between setting ECL and doing the work.) Mr. Mopps responded that the requirement was from the DEP; he indicated it is the terms of the permit that indicate the necessary time frames.

Mr. Whitney arrived 9:33

The discussion regarding establishment of the ECL continued; Mr. Brock was interested in whether the ECL could be established while property owners still had adequate or generous beachfront and did not need sand to be placed, and also whether (once that sand may have been eroded substantially over the years) the ECL created at the time of generous sand conditions would still be valid years later when the sand needed to be placed on that property. He suggested that some sort of letter ensuring this was the case would be instrumental to convince people that they aren't losing their property.

Mr. Mopps responded, noting that Mr. Brock had 13 neighbors who would not sign easements right now, and that refusal seemed to be more about their concerns regarding the Mean High Water Line (MHWL) and their concern about losing their littoral rights. This discussion continued with participation by Mr. Poff also who noted that, while the statute says you have to start work within 6 months of establishing an ECL, he is aware of other communities who actively pursued their projects but due to funding or permitting the projects were completed years later. Mr. Poff further shared it is his understanding that if the County set the ECL but then chose to not do the work, property owners could petition to have the ECL removed. In summary, he indicated, that while a property owner may want to set an ECL now with the understanding that work would not commence for eight years, the State would not do that; on the other hand, if the ECL is set now and the property owner indicates they will be using the first couple of years to line up the funding in order to go forward, the State would be more likely to work with you.

In response to another question from Mr. Brock, Mr. Poff indicated that consensus of all property owners is not required for establishment of the ECL; however, there will be public

notices and public hearings at which “hold outs” may register their objections. If majority in the public hearing opposed the ECL, it may not be set; if the sentiment was 50/50, Mr. Poff said he was not certain what the outcome would be.

Mr. Mopps commented further to explain time frames as they effect setting of the ECL. Mr. Poff also reiterated the fundamental point that the State’s interest is in this: if public funds are spent to create a beach, that beach will be a public beach, and the ECL establishes the line between the private and public property. Discussion on the general subject continued.

Ms. Ariens asked about 2003 rejection of this project based on a 50/50 split in the public acceptance, and whether that was the State’s decision; Mr. Mopps clarified that it was the BCC that decided not to go forward. This led to further discussion on the various ways the project might go forward without unanimous consensus, including through a major modification to the current project (which currently is permitted to extend to the north side of the county park); Mr. Poff described a number of different options.

Ms. Ariens questioned the process whereby sand eventually moves off the property of people who paid to have it placed there, onto other more southerly property. Mr. Poff agreed this is the natural outcome of sand movement and noted this is one of the reasons that the Commission wants full Key property owners’ participation via the newly-created MSBU or Municipal Services Taxing Unit (MSTU). Mr. Mopps added that the establishment of the MSBU/TU is a process that goes before the public for comment, where the County will lay out what will be charged to the property owners, and at that point, if the majority of citizens reject it, that could end the project.

After continued discussion, Mr. Poff wrapped up with information about recent and upcoming meetings and the options presented to the citizens.

[To hear the discussion in its entirety, please visit the Charlotte County Government website at <https://www.charlottecountyfl.gov/boards-committees/bsac/Pages/Meeting-Minutes.aspx> and choose the audio file for December 3, 2015.]

Citizen Comments

Chair Kewley opened the floor to citizen comments. Mr. Shediak commented further, asking for clarification whether just the north part of the Key could be done on its own. Mr. Poff replied yes, but pointed out that funding such a reduced-scale project would be astronomical for those property owners, and the southern owners would end up getting that sand eventually through the natural southward movement of the sand over time.

Mr. Shediak also requested clarification regarding an engineered beach getting help after a storm; Mr. Mopps noted that FEMA only funds replenishment of engineered beaches where they can monitor the amount of loss due to a storm. Mr. Shediak agreed with Mr. Brock that if an ECL would survive future beach loss, it should be established now, perhaps with simplified language in the construction easement and less years; Mr. Mopps pointed out that 20 years is the length of the permit/project with renourishment/annual monitoring duration, that’s what controls the construction easement time frame.

Mr. Shediak then asked whether a property would have to get at least a minor amount of sand (that may not really be needed) because the permit says everyone gets sand; Mr. Mopps responded with comments on the width of the engineered beach needing to be uniform and Mr. Poff confirmed that there would have to be *some* sand put there.

Mr. Shediak indicated he wanted to be a good citizen and assist because the people on the north end are desperate, but he voiced concerns about a “catch 22” where property owners

would have to sign up without knowing the cost. Mr. Mopps corrected this impression, noting that the funding unit is being established and the process is public. Mr. Shediak said he thought those who are not signing may be fearful of the ultimate amount and may think that resisting the construction easement would slow down or kill the process. Mr. Mopps emphasized that this project (North Manasota Key) would be going on the future, during 2019 or something similar. He indicated that he didn't need the easements tomorrow. Additionally, establishment of the MSBU requires a hearing process where full information will be provided to citizens; this process will be developed over the next six-12 months when the funding options will be available to be discussed. Further discussion ensued on this and related details of the process.

Guest Lorraine McBride asked who would be establishing the boundaries; Mr. Mopps described the process which takes place under the auspices of the MSBU Division and the County's legal staff. Ms. McBride asked how staff is or will be informing the public which led to a description of the methods, and the other resources available to citizens, and a lengthy discussion on elements of participatory democracy, and what the County's responsibility is to reach out to citizens, vs. what the citizens' responsibility is to be proactive.

Mr. Poff noted that anyone who had not signed the 2003 easement got a very detailed letter again last year about the Charlotte County Erosion Control Project; he said it seemed Ms. McBride was indicating that a lot of the 2003 signatories did not get the more recent letter which described the current situation.

Mr. Mopps suggested that MSBU staff should come explain their process; Mr. Pierce said he felt neighbor outreach could be very helpful to those not able to access the website or the newspaper articles, and that their communications with their neighbors would likely be much more effective than a letter from the County. Ms. McBride said that mail had been sent to some of the neighbors without result; they used the same mailing addresses that the County uses, from the Property Appraiser's site. Mr. Brock commented on how people find out about meetings, suggesting mailing out an announcement. Mr. Mopps responded that such a mailing would happen with any meeting concerning establishment of a new MSBU / MSTU, noting that the process is already in place. He pointed out that part of any MSTU budget goes to fund this sort of mass mailing.

Chair Kewley asked if there was a particular MSBU staff member who he would recommend come speak about this process; Mr. Mopps said he would follow up on that. Chair Kewley also suggested engaging with the Key citizen associations to help disseminate this information.

Ms. McBride then asked for another clarification regarding the houses on the north end of the Key where the water is at the revetments, and the comment that there is no precedent, other than the three houses described earlier, to give them 20 feet of the beach that they've lost, is; Mr. Poff explained the State statute, and indicated that he would not be hopeful about the State giving those folks a deviation, based on the information that he has, which is not comprehensive. Further discussion on this matter continued, with reference to property taxes that people are continuing to pay on disappeared beaches.

Mr. Brock asked if it was possible to get the law changed by petitioning Tallahassee; Mr. Poff said he would reach out to the officials to see if there's any possibility. He noted that while it was true that the State doesn't want to own revetments. Mr. Poff shared from the State's perspective, if it were possible to change the law and provide such a 20-foot strip of beach then set the ECL, then every person who ever got an ECL elsewhere could petition the State to give them the same consideration. Contemplating that possibility, the State would likely never agree. Mr. Poff said he would investigate the matter further and report at the next meeting.

Staff Comments

Ms. Auger spoke about the upcoming joint meeting, which will be held as a workshop again; she noted that if the group had anything to add to the agenda, now would be the time to submit it for the Feb. 3 meeting date.

Member Comments

Ms. Ariens expressed appreciation for staff effort.

Mr. Pierce asked if anyone has commented to Chad Lach on his lack of attendance; Ms. Auger indicated she would touch base with him about attending more. Mr. Pierce also asked about funds from FEMA possibly coming to the County from Hurricane Debbie -- is that a dead issue? Mr. Mopps reminds him of a prior discussion, that Debbie compared to other storms that year (such as Hurricane Sandy) did not rate funds; Mr. Poff indicated it would probably require an appeal to the Federal government via your legislators. He said he didn't have details, but the County would know why they are not pursuing it. Mr. Brock asked if there were any estimates available on the dollar amount the island MSTU would need to be paying annually to cover the dredging. It was indicated that's the process that's coming up soon, to set that.

Chair Kewley thanks Mr. Steve Reilly of the Sun newspaper, for his continued attendance and coverage of the issues.

Adjournment

Motion to adjourn was offered by Mr. Brock, seconded by Mr. Pierce; the meeting adjourned at 11:35 a.m.

Respectfully submitted,

Gayle Moore
Recording Secretary

Minutes Approved by

Clifford Kewley, Chairman
Beaches & Shores Advisory Committee